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EXAMINER

BHARADWAJ, KALPANA

ART UNIT	PAPER NUMBER
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2129

NOTIFICATION DATE	DELIVERY MODE
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04/19/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/810,929	Applicant(s) MESSINA, EDMUND	
	Examiner KALPANA BHARADWAJ	Art Unit 2129	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on January 08, 2010, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection based on new prior art is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Donald Sparks/

Supervisory Patent Examiner, Art Unit 2129.

Status of Claims

1. Claims 1-4 and 6-21 are pending. Claim 5 has been cancelled. Claims 20 and 21 are new.

Claim Objections

2. Claims 1, 10 and 19 are objected to because of the following informalities:
3. The claims read, “generating a result, for example a report, custom video presentation, web-site presentation, etc.” This limitation leads to ambiguity. It is not clear if the, ‘result’ must include any of the ‘report, custom video ...’ or would it have to include all of those means of presenting a result. Appropriate correction is required.
4. Claim 1 reads, “A computer program for interrogating ... comprising: a computer-readable memory ...” A computer program is a piece of software and cannot comprise a ‘memory device’. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 1-4 and 6-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Mishelevich (USPN 20050065813, referred to as **Mishelevich**).

Claim 1, 10, 19:

Mishelevich teaches a computer program for interrogating a user, and generating a result, for example a report (**Mishelevich**, ¶ 0083: making a proper diagnosis), custom video presentation, web-site presentation, etc., based upon the user's interrogatory answers, the computer program comprising:

a computer-readable memory device encoded with a database (**Mishelevich**, ¶ 0033: medical history database) comprising

a plurality of predefined questions and associated, predefined answers (**Mishelevich**, ¶ 0052: structured data ... includes questions ... list of predetermined answers), wherein the plurality of questions and answers are organized in a predefined relationship (**Mishelevich**, ¶ 0009: questions based on the answers to previous questions) between a pre-designated starting question (**Mishelevich**, ¶ 0013: query the patient interface; **EN**: 'query' is a predefined question in a medical database) and one or more ending questions (**Mishelevich**, ¶ 0041: determine pertinent questions; **EN**: pertinent questions included predesignated starting and ending questions) to thereby define a plurality of possible logical interrogatory paths (**Mishelevich**, ¶ 0041: determine if more questions should be asked via means of branched chain logic) through the database (**Mishelevich**, ¶ 0041: the medical history database), and wherein further the selection of any one of the plurality of possible logical paths is user-answer-dependent

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(**Mishelevich**, ¶ 0041: evaluates the answer to a question and determines ... chain logic);

a computer-readable memory device encoded with a user interface for displaying questions from the database to be answered by a user, and for accepting answers from a user (**Mishelevich**, ¶ 0009: patient interface); and

a computer-readable memory device encoded with an engine (**Mishelevich**, ¶ 0041: evaluation engine) to present questions from the database to the user interface (**Mishelevich**, ¶ 0041: pertinent questions that could be asked of the patient; (**Mishelevich** ¶ 0042: database ... to generate questions) to be answered by a user (**Mishelevich**, ¶ 0010: patient's answers are recorded), and to navigate one of the plurality of possible logical interrogatory paths defined by the relationship (**Mishelevich**, ¶ 0075: branched chain logic) between the pre-designated starting question and the one or more ending questions as dictated by a user's answers to the questions presented at the user interface (**Mishelevich**, ¶ 0056: the answer is then used to generate the next question).

Claim 2, 11:

Mishelevich teaches the computer program of claim 1, wherein the database further comprises content (**Mishelevich**, ¶ 0104: knowledge base) and rules (**Mishelevich**, ¶ 0104: a rule base) for generating at least one report based upon a user's answers to questions presented at the user interface (**Mishelevich**, ¶ 0110: output ... is a report of possible treatments), the content and rules having a predefined

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relationship with the plurality of predefined questions and answers of the database (**Mishelevich**, ¶) so that the content of the at least one report is dependent upon a user's answers to questions from the database (**Mishelevich**, ¶ 0041: answers to all the questions to determine ... diagnosis; **EN**: 'diagnosis' is analogous to report that is dependent on the patient's answers), and wherein further the engine is operative to generate from the reporting database at least one report using the content and rules from the database (**Mishelevich**, ¶ 0110: output ... is a report of possible treatments; **EN**: report is based on diagnosis, and diagnosis is based on patient answers).

Claim 3, 12:

Mishelevich teaches the computer program of claim 2, wherein the database comprising a plurality of predefined questions and associated, predefined answers, includes questions and answers for evaluating a users level of knowledge respecting a particular subject matter, and wherein further the content and rules for generating the at least one report based upon a user's answers to questions presented at the user interface include content and rules for generating a test score indicative of a users level of knowledge respecting the particular subject matter (**Mishelevich**, ¶ 0141: ranking values; **EN**: ranking is a measure of the patient having the ailment, and therefore is based upon the user/patient's answer, the question presented and the medical knowledgebase).

Claim 4, 13:

Mishelevich teaches the computer program of claim 1, wherein the computer-readable memory device encoded with the database, the computer-readable memory device encoded with the user interface, and the computer-readable memory device encoded with the engine all comprise the same computer-readable memory device (**Mishelevich**, ¶ 0036: information stored locally on the user's computer; **EN**: the computer has memory).

Claim 6, 15:

Mishelevich teaches the computer program of claim 1, wherein the database further comprises one or more video files, wherein the engine is operative to display one or more of the one or more video files at the user interface, and wherein further the one or more video files are associated with the predefined questions and answers of the database so that the display of the one or more video files at the user interface is dependent upon a user's answers to questions from the database (**Mishelevich**, ¶ 0033: sound recordings, video recordings and relationships of symptoms to diseases).

Claim 7, 16:

Mishelevich teaches the computer program of claim 6, wherein the engine is operative to display a plurality of the video files at the user interface in a continuous sequence the order of which is defined by a user's answers to questions from the database (**Mishelevich**, ¶ 0088: logically ordering the data).

Claim 8, 17:

Mishelevich teaches the computer program of claim 1, wherein the database further comprises one or more URL addresses, wherein the engine is operative to display the URL addresses at the user interface, and wherein further the one or more URL addresses are associated with the predefined questions and answers of the database so that the display of URL addresses at the user interface is dependent upon a user's answers to questions from the database (**Mishelevich**, ¶ 0028: web pages produced).

Claim 9, 18:

Mishelevich teaches the computer program of claim 8, wherein the engine is operative to display a plurality of the URL addresses at the user interface in a sequence the order (**Mishelevich**, ¶ 0088: logically ordering the data) of which is defined by a user's answers to questions from the database (**Mishelevich**, ¶ 0028: web pages produced).

Claim 14:

Mishelevich teaches the system of claim 10, wherein the at least one user interface is displayed at a location physically remote from the at least one computer

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comprising the database and the at least one computer comprising the engine
(**Mishelevich**, ¶ 0061: remote medical diagnostic tool).

Claim 20:

Mishelevich teaches the method of claim 19, further comprising the step of providing a computer database comprising content (**Mishelevich**, ¶ 0104: knowledge base) and rules (**Mishelevich**, ¶ 0104: a rule base) for generating at least one report based upon a user's answers to questions displayed at the user interface, the content and rules having a predefined relationship with the plurality of predefined questions and answers so that the content of the at least one report is dependent upon a user's answers to questions from the database, and wherein further the step of displaying a result at the user interface comprises displaying at least one report generated using the content and rules from the database (**Mishelevich**, ¶ 0110: output ... is a report of possible treatments).

Claim 21:

Mishelevich teaches the method of claim 19, wherein the computer database further comprises one or more video files associated with the predefined questions and answers of the database, and wherein further the step of displaying a result at the user interface comprises displaying one or more of the one or more video files at the user interface depending upon a user's answers to the questions from the database (**Mishelevich**, ¶ 0064: video clip).

Response to Arguments

7. Applicant's arguments filed 01/08/2010 has been reviewed but they are rendered moot with reference to the new grounds of rejection.

Examinations Considerations

8. Examiner has cited particular columns and line numbers (or paragraphs) in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well.

Conclusion

9. Claims 1-4 and 6-21 stand rejected.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KALPANA BHARADWAJ whose telephone number is (571)270-1641. The examiner can normally be reached on Monday-Friday 7:30am 5:00 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (571) 272-4201. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bharadwaj Kalpana/
Examiner, Art Unit 2129

/Donald Sparks/
Supervisory Patent Examiner, Art
Unit 2129